

**AGENDA MEMO**

**CITY COUNCIL MEETING OF: AUGUST 5, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: SUP-34331 - APPLICANT: L. ERIC CULVERSON - OWNER:  
VILLAGE SQUARE SHOPPING CENTER, LLC**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE JULY 15, 2009 CITY COUNCIL  
MEETING AT THE REQUEST OF COUNCILMAN ANTHONY.***

**\*\* CONDITIONS \*\***

The Planning Commission (7-0 vote) and staff recommend DENIAL.

**Planning and Development**

1. Conformance to all Minimum Requirements under LVMC Title 19.04.010 for a Massage Establishment use.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Massage Establishment with Waivers to allow a zero-foot distance separation from a residentially zoned parcel where 400 feet is required; and a zero-foot distance separation from an existing Massage Establishment where 1,000 feet is required located at 9440 West Sahara Avenue, Suite #215. The applicant is proposing a Massage Establishment within an established commercial development that currently houses an operating Massage Establishment. It has been determined that proposed use will cause an over saturation of this type of use in the immediate area, and will not be compatible with the neighboring residential property, as evidenced by the request for a Waiver of the required distance separation, therefore, staff is recommending denial of this application.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc. and Property Sales</i>	
02/15/89	The City Council approved a request for a Reclassification of property (Z-139-88) from: N-U (Non Urban) under Resolution of Intent to R-PD4 (Residential Planned Development – 4 Units per Acre), P-R (Professional Office and Parking, C-1 (Limited Commercial), and C-V (Civic), TO: R-PD7 (Residential Planned Development – 7 Units per Acre), R-3 (Medium Density Residential), and C-1 (Limited Commercial) located on the west side of Fort Apache Road, between Sahara Avenue and Charleston Boulevard. The Planning Commission recommended approval of the request.
8/18/04	The City Council approved a request for Site Development Plan Review (SDR-4639) for a proposed 57,092 square-foot Retail/Commercial building and a waiver of commercial standards for 3 feet of foundation landscaping where 6 feet is required approximately 260 feet north of Sahara Avenue and approximately 640 feet west of Fort Apache Road. The Planning Commission recommended approval of the request.
2/15/06	The City Council approved a request for a Special Use Permit (SUP-10406) for a Restaurant Service Bar at 9440 West Sahara Avenue, Suite #165. The Planning Commission recommended approval of the request.
7/12/06	The City Council approved a request for a Variance (VAR-12102) to allow 2,404 parking spaces where 2,440 is the minimum required after the addition of a 1,200 square foot restaurant within an existing commercial center at 9440 West Sahara Avenue. The Planning Commission recommended approval of the request.

4/19/06	The City Council approved a request for a Review of Condition (ROC-12097) for a Review of Condition Number 2 and 4 of an approved Site Development Plan Review (SDR-4639) to allow a zero-foot foundation landscape buffer where three feet was allowed and shown on the approved plans at 9440 West Sahara Avenue. The Planning Commission recommended approval of the request.
06/11/09	The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #36/jb).
<b><i>Related Building Permits/Business Licenses</i></b>	
11/05/04	A building permit (#4021072) was issued for On-site Improvements/Hardscapes at 9440 West Sahara Avenue. This permit was expired on 10/22/05.
11/05/04	A building permit (#4021071) was issued for Office/ Retail Shell Building at 9440 West Sahara Avenue. This permit was finalized on 08/07/06.
07/12/06	A business license (M03-00103) was issued for a Massage Establishment (Internal Health Wellness Center) at 9330 West Sahara Avenue, Suite #250. This license is still active.
08/10/07	A business license (M03-00037) was issued for a Massage Establishment (Euphoria Salons & Day Spa) at 9410 West Sahara Avenue, Suite #140. This license was marked out of business on 07/09/08.
04/20/09	A business license (B08-01343) was issued for Beauty/Cosmetic Sales at 9440 West Sahara Avenue, Suite #215. This license is still active.
04/20/09	A temporary business license (H22-98003) was issued for Health and Fitness Consultant at 9440 West Sahara Avenue, Suite #215. This license is still active.

<b><i>Pre-Application Meeting</i></b>	
04/10/09	A pre-application meeting with the applicant was held where elements of submitting a Special Use Permit for a Massage Establishment were discussed topics included: <ul style="list-style-type: none"> <li>• Minimum Special Use Permit Code Requirements</li> <li>• Application Materials and Documents</li> <li>• Meeting Dates and Deadlines</li> <li>• Required Waivers of Minimum Special Use Requirements</li> </ul>
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required, nor was one held.	
<b><i>Field Check</i></b>	
05/08/09	A field check was performed by staff at the subject property. The subject property was noted as a well maintained two-story retail/office building within the Peccole Village Square Shopping Center. Access to the second floor is provided through an entry vestibule located on the north side of the building providing access to the interior elevator and stairwell.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	37.18

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Multi-Family Residences	M (Medium Density Residential)	R-PD21 (Residential Planned Development – 21 Units per Acre) and R-3 (Medium Density Residential)
South	General Retail	SC (Service Commercial)	C-1 (Limited Commercial)
	Multi-Family Residences	M (Medium Density Residential)	R-PD20 (Residential Planned Development – 20 Units per Acre)
East	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
	Multi-Family Residences	M (Medium Density Residential)	R-PD18 (Residential Planned Development – 18 Units per Acre)
West	Public Library	PF (Public Facilities)	C-V (Civic)

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>		X	N/A
<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Purpose and Overlay Districts</b>		X	N/A
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

## DEVELOPMENT STANDARDS

*Pursuant to Title 19.10, the following parking standards apply:*

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center	433,102	1:250	1,733	28	2,354	96	Y
TOTAL			1,761		2,450		

## ANALYSIS

This is a request for a proposed 1,721 square-foot Massage Establishment with Waivers to allow a zero-foot distance separation from residentially zoned parcel where 400 feet is required; and a zero-foot distance separation from an existing Massage Establishment where 1,000 feet is required located at 9440 West Sahara Avenue, Suite #215. The applicant has indicated that there is no application of creams nor any hands on contact during a normal session, massages are administered using a non invasive mechanical device which massages connective tissue.

The subject site is located within a large commercial subdivision that enjoys the benefits of shared parking. The parking requirements for the proposed Massage Establishment will not adversely affect surrounding land uses. However, the proposed Massage Establishment fails to meet Minimum Special Use Requirements number 3 and 4 of Title 19.04 for a Massage Establishment, which state:

3. The use may not be located within 400 feet of any church, synagogue, school, City park, child care facility, or any parcel zoned for residential use.
4. The use may not be located within 1000 feet of any other massage establishment.

The subject site shares a property line with parcels to the north that are zoned R-PD21 (Residential Planned Development – 21 Units per Acre) and R-3 (Medium Density Residential), and is located within a Shopping Center with an established Massage Establishment approximately 230 feet away. Therefore it has been determined that the proposed use will cause an over saturation of this type of use in the immediate area, and will not be compatible with the neighboring residential property, as evidenced by the requested Waivers of the required distance separations, therefore, staff is recommending denial of this application.

## USE

Title 19.04 defines a Massage Establishment as, “A facility which is occupied and used for the purpose of practicing massage therapy as defined in LVMC Chapter 6.52. This use does not include the use “accessory massage,” as defined in this Title.”

## FINDINGS

The following findings must be made for a Special Use Permit:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The applicant has requested Waivers of the Title 19.04 minimum distance separation requirements to allow a zero-foot distance separation from a residentially zoned parcel where 400 feet is required; and a zero-foot distance separation from a Massage Establishment where 1,000 feet is required. The proposed use will cause an over saturation of this type of use in the immediate area, and will not be compatible with the neighboring residential property.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The proposed Massage Establishment use will be located within an existing shopping center, which is physically suitable for the type and intensity of the land use proposed.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

Access to the site is via driveways from Sahara Avenue and Fort Apache Road, both of which are 100-foot wide Primary Arterials, according to the Master Plan of Streets and Highways, and are adequate to facilitate all traffic generated by the proposed use.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

Approval of this Special Use Permit will not compromise public health, safety, or welfare as the proposed Massage Establishment use will be subject to regular inspections.

**5. The use meets all of the applicable conditions per Title 19.04.**

The proposed use fails to meet Minimum Special Use Requirements number 3 and 4 as listed in Title 19.04 for a Massage Establishment use, as evidenced by the requested Waivers.

**PLANNING COMMISSION ACTION**

Proposed condition – All massage conducted at this location shall be using an LPG mechanical device.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 2

**SENATE DISTRICT** 8

**NOTICES MAILED** 872 by City Clerk

**APPROVALS** 2

**PROTESTS** 5